

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DR. MARK A. BARRY,

Plaintiff,

v.

DEPUY SYNTHES PRODUCTS, INC.  
MEDICAL DEVICE BUSINESS  
SERVICES INC., AND DEPUY  
SYNTHES SALES, INC. (D/B/A  
DEPUY SYNTHES SPINE),

Defendants.

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Civil Action No. 2:17-cv-03003-PD

**UNOPPOSED MOTION TO DISMISS '301 AND '788 PATENT CLAIMS**

Plaintiff Dr. Mark A. Barry, M.D. (“Dr. Barry”), pursuant to Fed. R. Civ. P. 41(a)(2), hereby moves for the dismissal with prejudice of all of his causes of action related to U.S. Patent No. 9,339,301 (the “’301 Patent”) and U.S. Patent No. 9,668,788 (the “’788 Patent”) in Dr. Barry’s First Amended Complaint (Dkt. 20) against Defendants DePuy Synthes Products, Inc., Medical Device Business Services, Inc., and DePuy Synthes Sales, Inc. (d/b/a DePuy Synthes Spine) (collectively, “DePuy”):

1. Third Cause of Action (Willful Infringement of the ’301 Patent); and
2. Fifth Cause of Action (Willful Infringement of the ’788 Patent).

DePuy does not oppose this Motion.

WHEREFORE, Dr. Barry respectfully requests that the Court enter the accompanying Proposed Order submitted dismissing all of his Causes of Action under the '301 Patent and the '788 Patent against DePuy Synthes with prejudice.

Respectfully Submitted,

Dated: September 1, 2021

KILPATRICK TOWNSEND &  
STOCKTON, LLP

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CERTIFICATE OF SERVICE

I, D. Clay Holloway, certify that on September 1, 2021, I served a true and correct copy of the foregoing document on all counsel of record via the CM/ECF filing system.

By: /s/ D. Clay Holloway  
D. Clay Holloway